

**ZONING BOARD OF APPEALS
781-982-2100**

**Minutes
July 10, 2014
Cotter Room
7:00 p.m.**

Members present: James Haney, Lisa Bezanson, William Mullen, John Shepard, Sean Reynolds, Marshall Adams, Building Inspector/Zoning Enforcement Officer

Approval of minutes: April 10, 2014 – motion to approve made by Mr. Shepard, seconded by Mr. Reynolds, 3 ayes, 2 abstentions (Mrs. Bezanson, Mr. Mullen).

June 12, 2014 – motion to approve made by Mrs. Bezanson, seconded by Mr. Mullen, 4 ayes, 1 abstention (Mr. Reynolds).

7:00 p.m. **Petition of Gosselin Home Builders LLC, 1540 Bedford Street, Abington, for: a special permit to construct single family home in the Floodplain and Wetlands Protection District and waiver of the Environmental Impact Statement at 3 Crossley Street (fka 11 Murphy Street), under Abington Zoning By-Laws Sec. 175-35G. The property is located on Assessors Plan 51, Plot 11, in the R-30 Zone, deed reference 96622/LC.** Mrs. Bezanson made the disclosure that she, her husband and their company have done business with the applicant, his attorney and surveyor in the past, as well as previous owner, but have nothing to do with the hearing at this time. Voting members: Lisa Bezanson, William Mullen, John Shepard.

Sewer advisory – has 250 gallon capacity limit. Atty. Shawn Reilly attended with Steve Gosselin, a developer who has built commercial as well as residential properties. This is for single family house on a single lot. Conforms to all setbacks. Proposal is for work in the FPWPD. Doesn't mean it is in the wetlands, could be poorly draining soil. House is 36' x 26'. Doesn't alter topography to create problems or drainage issues for any abutter. The plans show the street and the house across the street are at 185, and that is what they are proposing. They won't be pitching water at a neighbor. There is a catch basin at the rear of the lot that catches water coming on to this lot and goes into retention basin on the southerly side of the property. It has already been reviewed by the Conservation Commission. Murphy Street leads to a proposed subdivision owned by Century Land Sales. They have taken into account the topography and swales channel water around the house to the front of the yard.

Mr. Reynolds – reviewed standards in the by-laws. Atty. Reilly – it is not in the FEMA flood zone. It has gone through a civil engineer's review.

Mr. Shepard – question on waiver of EIS. It had been requested on the application. Atty. Reilly – typically the board waives one and two family homes from the EIS. It is usually required for multi-family or commercial developments. Chapter 175-35-G4 was reviewed.

Opened to floor:

Walter Berry, 7 Crossley Street – Has been involved in the water issues with the development of Century Estates for 7 years. There are flooding issues in this area. Mr. Haney – there are areas in the FPWPD that are not wetlands and areas that are moist. Atty. Reilly – houses in this area are in the FPWPD, but may not be in wetlands, but anytime you are constructing in that zone, you need to request a special permit to make sure that whatever is being proposed will not take water from the proposed lot and put it on another lot. You can't increase flow off the lot. Mr. Berry – there was a pond behind Gray Movers years ago, but it's gone now due the Century Estates development. There is a catch basin at the intersection that is severely damaged and one that had been paved over. Will that be fixed? Right now the water from the development goes on to Crossley Street. Mr. Haney pointed out that it is all at 185; wouldn't it all go there anyway? Mr. Berry – what is elevation of foundation for this proposed house? That would be building department issue. Mr. Berry asked who would be the go-to person if he has issues. As far as roadway and drainage for subdivision, it would be developer or his engineer.

Scott Noble, 8 Crossley Street – this is directly across the street from him. Land had been raised up with rocks to absorb the water so it wouldn't create a flood in front of his house. Concerned with what will happen if lot elevation is changed. Will all the water come back out on to the street? Atty. Reilly – house will be brought to 186 and the yard 185. There will be no pitch to come out on to the street now. Putting in a lawn will improve the absorption. Mr. Reynolds – felt EIS would address these concerns. Atty. Reilly – if they had an EIS, it would say to refer to the plan for drainage design. The plan has been stamped by engineer. They are channeling the water with swales to go back into detention basin. It has been designed so it will not exacerbate anything. Mr. Noble – just wants to make sure nothing will be worse.

Atty. Reilly – will mention the catch basin to Jack Caine in the Highway Department.

Mrs. Berry – they don't get anywhere with Mr. Kourafas, Century Land Sales.

Atty. Reilly – explained that the Planning Board will require that all drainage works according to the design before they would sign off and allow the street to become a public way and have the Town's engineer review the applicant's work. As far as EIS, they have a letter from the Sewer Dept. that gives them 250 gals; they will connect to Town water.

Mr. Haney – for single family home, he felt waiver of EIS was acceptable. Mr. Mullen - felt plan was reasonable, pushing water towards basin at back of the lot. We can't hold Mr. Gosselin responsible for the issues with the street. Mrs. Bezanson – Board can't require Mr. Gosselin to solve the problems of the whole neighborhood. Atty. Reilly – the detention basin is part of the subdivision layout.

Motion by Mrs. Bezanson to approve, seconded by Mr. Mullen, unanimous.

7:05 p.m. **Petition of Suffolk Meadows Nominee Trust, 245 Central Street, Abington, for: area, setback and lot coverage variances to raze existing commercial building and subdivide the property into six lots, constructing a residential duplex with driveways and site appurtenances on each lot at 38 Bates Street, under Abington Zoning By-Laws Sec. 175-25. The property is located on Assessors Plan 53, Plots 20, 21 & 22 in the R-20 Zone, deed reference: 20888/178.** Mrs. Bezanson made the disclosure that she, her husband and their company have done business with the applicant, his attorney, his surveyor in the past, but have nothing to do with this petition. Voting members: James Haney, John Shepard, Lisa Bezanson. Mr. Reynolds made the disclosure that he had worked with members of an abutter's family and would prefer not to be a voting member.

Sewer advisory – sewer capacity does not exist at the present time. Must be approved by the Board of Sewer Commissioners at a regularly scheduled meeting if capacity becomes available. Letter from Chief John Nuttall, Abington Fire & Rescue (letter attached), in favor of project. Letter from William Giniewicz, owner of land abutting this property, in favor (letter attached).

Atty. Shawn Reilly attended with Glenn LaPointe, Trustee of Suffolk Meadows Nominee Trust, Russ Wheatley, and John Cotter. Proposal is to take down old factory building. Mr. LaPointe had gone through permitting process to convert property to 32 units. Sewer was not available at that time. Property has been a problem with people breaking in trying to steal things, fires, etc. He would like to take down building and replace with six duplexes. Lots are between 60-70' wide. Submitted an assessor's plan showing this would be consistent with existing properties. It will take time and money to take this building down and time and money to put these new buildings up. Proposal is to do duplex structures so the project can be done incrementally. This would make the neighborhood a 100% residential area.

For clarification, the property is in R-20, which requires 20,000 s.f. lots and 100' of frontage, but there is a footnote that if you put up a duplex in the R-20 zone, you need 30,000 s.f. and 110' of frontage. Some of the variances listed in the application were not accurate and there was an omission in the application for special permit for the duplexes, but in the application, it did say they were putting up duplexes. Statute was referred to as far as notice of public hearing requirements, which Atty. Reilly felt the applicant had met. It is clear from the notice that they are requesting duplexes and Atty. Reilly did not feel the notice was flawed. Due to difference in the requirements for duplexes in R-20, a corrected sheet was submitted with the relief requested.

They had tried to purchase additional land from Margo Gardner in the back, but the mortgage company wouldn't release it. With the shape of the lot and with the building itself having to be torn down, it is an obvious hardship. As far as impervious surface, what isn't currently the building is mostly blacktop, so probably 70-80% coverage now. It will be less impervious with what they are proposing. They have tried to make the proposal blend with the neighborhood and have had very positive feedback from the neighborhood. Lot 3 requires slightly more relief because it is a corner lot; there are technically two front lot lines and two rear lot lines, with no side lines.

The proposal does require a number of variances for each lot, but overall plan is very reasonable and replaces a huge liability and eye sore with six new buildings. It will take a while to take out what's in there and remove the building.

It was explained that they will be condominiums on six separate lots due to financing. Lot comes into existence as soon as building permit is pulled and foundation is started. It is registered with the Registry of Deeds. As soon as they receive the variance, they would submit a Form A plan, give it to the Planning Board, show that they had been approved by the Zoning Board for these lots, and they would sign the plan, so the plan and the decision would get recorded.

Mr. Shepard – this is a lot of relief requested, but this is an old building and not doing the Town any good. From the Town's standpoint, this would be the best thing re hazards, etc. Mr. Haney understood the cost issues involved. Mrs. Bezanson - It had previously been approved for 32 units. He could rehab this as a commercial building.

Mr. Adams had picked up on the special permit, and notified the applicant. They still have to go to the Planning Board. Mr. Reynolds suggested the motion include the caveat that it be conditioned on no inaccuracies and not appealed within 90 days. Mr. Haney was comfortable with Mr. Reilly's explanation of notice. The lot sizes fit the neighborhood. There would be a benefit to having that building gone.

Motion by Mrs. Bezanson to approve as per plans submitted, with the amended dimensional relief requested by Atty. Reilly, with the condition that if it is appealed within 90 days, it is brought back before the board for any deficiencies in notice, seconded by Mr. Shepard, unanimous.

7:10 p.m. Petition of the Abington Green Wave Boosters, Inc., PO Box 2140, Abington, for a special permit and sign variances to replace the existing Abington High School sign with a 2-sided digital sign no larger than the existing sign, together with a directory sign for town buildings on Gliniewicz Way, under Abington Zoning By-Laws Sec. 175-57A & E and §175-60B. The sign will be located on Gliniewicz Way in the HC Zone. Voting members: Lisa Bezanson, William Mullen, Sean Reynolds. John Shepard is an abutter and recused himself. Mrs. Bezanson made the disclosure that she, her husband and their company have done business with Atty. Reilly in the past, but have no interest in this hearing, also that the HUG Foundation has contributed to the GreenWave Boosters.

Sewer advisory - no issues with this proposal. Shawn Reilly gave presentation and is here as volunteer. Current sign is old; it is in disrepair. Mr. Reilly has been changing the letters for over 15 years. The GreenWave Boosters want to replace it with digital sign, same frame size. Town Hall and Library sign would probably be on top. Would be a benefit to the Town. They would be fine with restrictions as far as how often it changes. Funds are to be privately donated, approximately \$15,000. Would be installed by Frank Lane and would be a higher quality sign as far as pixels, no animation, to be shut off at 11 p.m. with auto dimming. It would be the same size, same location, just better sign. It would be the same quality as D'Ann's with multi colors.

John Shepard – doesn't remember ever getting notified of the original sign. Thinks it is at the wrong location, too close to intersection. Coming north bound it is dangerous. Feels if it is changing and a lot of color, it's a distraction. Not against sign, but shouldn't be changed more than once or twice a day.

Mr. Reilly – doesn't want this to be a 30-message sign, but maybe four or five messages. Mr. Haney – the question of location. Mr. Shepard – coming from southbound going north, when they turn on to Gliniewicz Way, they very often will try to beat the light, and there are frequent accidents. They are going around trying to read the sign. Concerned with it changing too often at that location. Mr. Haney – the issue of signs changing too often has been raised, but compliance is the issue.

Mr. Reynolds - this differs because it will be on Town property and Town's liability. Could it be run by MassDOT or town counsel to see if this sign will be disturbing, because he would like that in the folder so that if someone blames the sign for an accident, the board can say the state said it was ok or town counsel. Mr. Reilly - it's not on state property, it's on town property and is about 14' away from the edge of that island. Town counsel hasn't seen it, but it has been shown to the Town Manager and he supported it. If the message is digital or what is there, he understands that the board doesn't want flashing lights, and this will be easier to change and have more messages, not every ten seconds. Mr. Reilly didn't think accidents at this location are due to sign, but poor driving.

Mr. Reynolds wants evidence that there would be no liability; call MassDOT and town counsel. Doesn't Mr. Reilly want to check to see that there is no additional liability? Mr. Reilly - it's not in road layout. Mr. Reynolds - it could be answered by case law; wants to insulate the town more. Mr. Reilly – No – the sign has been there for 20 years; there is no change to size or location, only that it will be changed differently. Whatever issue exists there now will exist later. Mr. Reynolds – 68 billion colors – we're going from black and white to color. Mr. Reilly – it's a multi-color sign with multiple shades, energy efficient sign. Mr. Reynolds – he understands that, but where it is located, he would like more coverage for the town. Mr. Mullen – is it any different from the one across the street at Seoane's? Even though it changes more than it was allowed, he didn't feel it made that area any more dangerous. Mr. Reilly felt sign has been a benefit to the Town. Mr. Reynolds felt it would be easy enough to check with Abington Police records for accidents at that intersection. Has there been an increase in accidents since the sign went in? Mr. Reynolds would feel better if town counsel gave opinion. Mr. Reilly didn't think they would get a prompt response from MassDOT, or that it had been required from any other sign proposal. The town will control the contents and how often it will change.

Mr. Haney - for town counsel to research this, board would have to get permission from Rick LaFond to contact town counsel. Mr. Reynolds – if town manager didn't approve the contact, then he absorbs the liability on the town. Mr. Mullen didn't see the sign as a liability. Marshall Adams didn't see that it would be an issue as far as changes and compliance. Mr. Haney - doesn't see the need for a research project by town counsel; won't change any liability status. Mr. Reynolds – if research shows problems, then you don't change the sign. Mr. Haney – the sign exists, you are changing a characteristic of that sign. Mr. Reilly suggested approving subject to no objections from town counsel and town manager. Mr. Haney appreciated Mr. Reynolds' point of the Town exposing itself to liability it doesn't need. Mr. Reilly appreciated their airing it out and discussing and resolving it.

Mrs. Bezanson – had Mr. Reilly talked to Rick LaFond about this. Mr. Reilly – he showed him the pictures of preliminary design, as well as to Superintendent of Schools, Town Clerk and Boosters.

Opened to floor:

Brenda Shepard, Lincoln Village – has lived there for almost 32 years. There have been a lot of accidents there. Sees issue that it is dangerous. People get distracted by things like this. Doesn't want to see a lot of colors. It will bother them at night. Mr. Haney – the way the LED's are set up, it would not be as bright as what is there now. Mr. Reilly – didn't think this light would impact Lincoln Village. Mrs. Shepard – this is a dangerous intersection. Mr. Haney – conditions will be set for minimum change. Mr. Adams – is responsible for compliance, but is understaffed. Did not think the school would be an issue as far as compliance. The sign will not have flashing, animation, streaming, rolling. There will be no sound. There will be auto dimming. Mr. Adams agreed it was a bad intersection, but didn't see the sign as being a problem, it's traffic that is the problem.

Donna Hoffman, Lincoln Village - it's good Town Hall and Library will be listed on sign. Relieved it won't be flashing, or looking like a Vegas strip. Requests the board keep the Town itself in mind. Town has changed dramatically during the last 20 years. Concerned with possibility of Tedeschi's with drive thru Dunkin Donuts, gas station with additional signs there. It would change the flavor of that whole intersection. She asks the board to keep that in mind as well. Concerned with potential accidents. It will be more visual in that area. Safety is a big issue, use caution. Who would be responsible for changing sign? Mr. Reilly - money hasn't been raised yet, so he's not sure who will be changing the sign. As of now, the responsibility is with the Abington High School. If they need something on it, they call him. He anticipates that whoever is in the principal's office at the High School will have access. It would still have only three lines, so it would be similar to what is there now. There would only be room for graphics if the message was very short. Priority is for first school based activities, then Town Hall/Library events, then community events. Town would be responsible for the electricity, but LED's would use less power. Ms. Hoffman - as to location, could it be moved? Thinks there is too much distractibility.

Closed back to table at 9:10 p.m. Motion could be with no objections from town counsel or the town manager. Motion by Mr. Mullen to approve the petition pending no objections by town manager for town counsel to research the question, seconded Mr. Reynolds, unanimous. If Town Manager says we don't need the consultation, it's approved.

Meeting adjourned at 9:10 p.m.

Respectfully submitted,

Nancy Hurst